

REMARKS

This Reply is in response to the Office Action mailed on March 23, 2004 in which Claims 22-36 were rejected. With this Reply, Claim 36 is cancelled and Claims 37 and 38 are added. Claims 22-35 and 37-38 are presented for reconsideration and allowance.

I. Rejection of Claim 36 Under 35 U.S.C. § 112, Second Paragraph.

Paragraph 2 of the Office Action rejected Claim 36 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject of the invention. As noted by the Examiner, the recitation "said stack damper" lacked antecedent basis. Claim 36 is cancelled.

II. Rejection of Claims 22-35 Under the Judicially Created Doctrine of Obviousness-Type Double Patenting.

Paragraph 4 of the Office Action rejected Claims 22-35 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-12 of U.S. Patent No. 6,666,446. The Office Action asserted that "Although the conflicting claims are not identical, they are not patentably distinct from each other because the positioning lever extending from the frame in a direction generally parallel to a line connecting the axes of rotation of the rollers would have been obvious." Applicant respectfully disagrees with the assertion that the positioning lever extending from the frame in a direction generally parallel to a line connecting the axes of rotation of the rollers would have been obvious. In particular, the Office Action failed to establish such a prima facia case of obviousness. However, to facilitate allowance of the present case, a terminal disclaimer is being submitted with this Reply to overcome the rejection. Accordingly, Claims 22-35 are believed to be in condition for allowance.

III. Added Claims.

With this Reply, Claims 37 and 38 are added. Claims 37 and 38 depend from Claim 22 and are believed to be patentably distinct over the prior art of record. Consideration and allowance of Claims 37 and 38 are respectfully requested.

IV. Conclusion.

After amending the claims as set forth above, claims 22-35 and 37-38 are now pending in this application.

Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is invited to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date April 28, 2004

By Todd A. Ratte

FOLEY & LARDNER LLP
777 East Wisconsin Avenue
Milwaukee, Wisconsin 53202-5306
Telephone: (414) 297-5710
Facsimile: (414) 297-4900

Todd A. Ratte
Attorney for Applicant
Registration No. 38,276